

REMARKS

Claims 1-23 from the applicant's U.S. Patent 5,661,645 have been canceled, thus rendering moot their rejection in the Office Action of August 12, 2008. Reissue claims 24, 28, 32, 37, 38, 41, 42, 44, and 46-53 are in the application; claims 24, 28, 32 and 44 are independent.

Claims 24, 28, 32, 37, 38, 41, and 42 were rejected on the same grounds as in the Office Action of July 16, 2007; the Office Action did not act on claims 46-53. The Examiner agreed in a telephone interview with the applicant's undersigned attorney on August 20, 2008, that the next Office Action may not be made final because the current Office Action failed to act on all of the claims. That interview was made of record by the applicant in the Record of Examiner Interview dated August 26, 2008 (a copy of which is enclosed).

This Response is submitted without amending any of the remaining claims because the current Office Action failed to address the actual claim language when setting forth the grounds for rejection. That is, the claims presented in this Response are the same claims that were allowed after the Amendment of December 12, 2007. The Remarks in the December 12 Amendment are incorporated in this Response as if set forth in full herein.

The current Office Action presents the same situation that existed after the Office Action of July 16, 2007, to which the December 12 Amendment responded. The current rejection of the added reissue claims (at least the ones that were acted on) is based on the same references used in the July 16 Office Action. The December 12 Amendment specifically requested that if the Examiner deemed the applicant's claims unpatentable, that he point out how the references used to reject the claims apply to the features actually recited in the claims. Instead, the current Office Action simply repeats the rejection that was previously overcome by the applicant's December 12 Amendment, but without addressing the actual language of the applicant's claims or the

patentability arguments presented in the December 12 Amendment. The December 12 Amendment also requested the Examiner to follow established PTO procedure and address the technical points presented in the Declaration of Peter A. Hochstein, dated April 12, 2007 (“the Hochstein Declaration”), submitted with the Preliminary Amendment of April 13, 2007. Indeed, the following comments from the December 12 Amendment are fully applicable to the current Office Action:

The applicant notes that the Office Action fails to discuss the Hochstein Declaration. According to the Manual of Patent Examining Procedure, 8th ed., Rev. 6, Sept. 2007 (“MPEP”):

Evidence traversing rejections, when timely presented, must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action.

MPEP § 716.01(B), at 700-289.

The instruction to consider evidence of nonobviousness submitted in a timely declaration is repeated at MPEP § 716.01(a), at 700-289 (“Objective Evidence Must Be Considered When Timely Presented”). That consideration must be in accordance with the following principles:

When an applicant timely submits evidence traversing a rejection, the examiner must reconsider the patentability of the claimed invention. The ultimate determination of patentability must be based on consideration of the entire record, with due consideration to the persuasiveness of any argument and any secondary evidence to the contrary.

MPEP § 617.01(d), at 700-291. See also In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984) (“If rebuttal evidence of adequate weight is produced, the holding of *prima facie* obviousness, being but a legal inference from previously uncontradicted evidence, is dissipated.”).

In preparing the current Office Action, dated July 16, 2007, the Examiner appears not to have considered the Hochstein Declaration, which was previously and timely submitted with the Preliminary Amendment dated April 13, 2007. Accordingly, if the Examiner still believes that the present application is not allowable upon reconsideration of the patentability of the applicant’s invention in light of this Amendment and the

previously submitted Hochstein Declaration, the applicant respectfully submits that it would be premature to make the next rejection final.

It also appears from the Office Action's application of Hildebrand to the applicant's claims that the Examiner did not take into account the actual claim language presented in the Preliminary Amendment. For example, the Office Action refers to "the claimed clamp circuit's 'voltage sensing means'" and "the claimed conflict monitor circuit's 'control load means'." Office Action, pages 3, 4, 6, and 8. However, the rejected claims did not recite a "clamp circuit" with a "voltage sensing means," or a "control load means." (The applicant assumes that the reference to a "conflict monitor circuit" was meant to be to the claimed conflict monitor *compatibility* circuit.)

If the Examiner again rejects any of claims 24, 28, 32, and 44, the applicant respectfully requests that he explain how he applied the references, especially Hildebrand, to the actual claim language, rather than any recharacterizations of it. The applicant very carefully chose the language used to recite the claimed conflict monitor compatibility circuit, to ensure that the claims are patentable over Hildebrand. The applicant requests that the Examiner, in turn, indicate precisely where in Hildebrand he has found a disclosure of each of the features of the applicant's circuit, exactly as it is claimed.

Amendment of December 12, 2007, at 21-22 (emphasis in original).

Those comments apply to the present situation because the Examiner has now in fact rejected the claims submitted with the December 12 Amendment, in the same terms used in the Office Action of July 16, 2007. Accordingly, the applicant renews his request that the Examiner address the actual claim language and also explain in detail why he did not find the Hochstein Declaration to support patentability of the reissue claims. This request is all the more pertinent because the claims presented herein were allowed in response to the December 12 Amendment, and the issue fee was paid, before this renewed rejection based solely on references over which the claims were allowed.

SUPPLEMENTAL REISSUE DECLARATION

The rejection based on an allegedly defective reissue declaration misapprehends the original declaration submitted with the present application. Contrary to the Office Action, the original reissue declaration nowhere states that the error being corrected was the failure to

present claim 6 in independent form. It actually says that the error was the failure to present “independent claims directed to a conflict compatibility circuit that did not have limitations directed to a particular power supply structure.” As such, the original declaration in fact still applies to the claims now in the application.

Moreover, a Supplemental Declaration for Reissue Patent Application To Correct “Errors” Statement (37 CFR 1.175) (Form PTO/SB/51S), executed by the inventor, was submitted with the December 12 Amendment. That is, a supplemental reissue declaration, on the PTO’s own approved form, is already of record.

In view of the above, it is not clear to the applicant what is required in the way of an additional reissue declaration.

SUMMARY

For all of the reasons put forward in the December 12 Amendment, and in view of the comments above regarding the allegedly defective reissue declaration, the applicant believes that added reissue claims 24, 28, 32, 37, 38, 41, 42, 44, and 46-53 are patentable, and requests that they be allowed.

It is believed that no fee is required on account of this Response. However, if there are any fees due in connection herewith, they may be charged to Deposit Account No. 14-1131.

All correspondence and telephone inquiries should be directed to the applicant's undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David M. Quinlan", written over a horizontal line.

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